PROVINCE OF NEWFOUNDLAND

NINTH ANNUAL

REPORT

OF THE

PARLIAMENTARY COMMISSIONER (OMBUDSMAN)

FOR THE CALENDAR YEAR

1983

PRESENTED TO THE LEGISLATURE

PURSUANT TO SECTION 29(1) OF

THE PARLIAMENTARY COMMISSIONER (OMBUDSMAN) ACT

C O N T E N T S

	PAGE
LETTER OF TRANSMITTAL	1
SUMMARY OF CASES CARRIED OVER FROM 1982	2
COMPLAINTS RECEIVED DURING 1983 BY CATEGORY	10
SUMMARY OF CASES WITHIN JURISDICTION 1983	11
SOURCE AND NUMBER OF COMPLAINTS BY COMMUNITY - APPENDIX I	66
THE PARLIAMENTARY COMMISSIONER (OMBUDSMAN) ACT - APPENDIX II	71

Our File:

NEWFOUNDLAND

OFFICE OF THE PARLIAMENTARY COMMISSIONER
(OMBUDSMAN)

Prudential Building, 49-55 Elizabeth Avenue, P.O. Box 4750
St. John's, Nfld. A1C 5T7 Phone 753-7730

April 2, 1984

The Honourable the Speaker,
House of Assembly,
Confederation Building,
St. John's, Newfoundland.

Mr. Speaker,

Pursuant to Section 29(1) of The Parliamentary Commissioner (Ombudsman) Act, I have the honour to submit this report covering the activities of my office during the calendar year of 1983.

Respectfully,

Ambrose M. Peddle
Parliamentary Commissioner
(Ombudsman)

SUMMARY OF CASES

REPORTED AS "UNDER INVESTIGATION"

IN 1982 REPORT

81/400/14 DEPARTMENT OF FINANCE

This case involved a man who retired from a Government Department in 1963 and in 1975 resumed work with another Government sponsored agency. Because he was in receipt of a pension from the former, he was not permitted to make pension contributions in his new employment.

This matter is still under review by Finance officials and it is hoped it may be resolved eventually by new legislation.

81/WCB/11 WORKERS' COMPENSATION COMMISSION

Withdrawn

81/WCB/12 WORKERS' COMPENSATION COMMISSION

This worker made a claim for Workers' Compensation benefits. The claim was denied because it was not established to the satisfaction of the Board that an "on the job" accident had occurred.

On reviewing the evidence, the Ombudsman could not disagree with the decision of the Board.

81/WCB/13 WORKERS' COMPENSATION COMMISSION

Workers' Compensation total disability benefits were discontinued in this case when it was considered by the Board that this man was no longer totally disabled.

81/WCB/13 WORKERS' COMPENSATION COMMISSION

(continued)

The Board's decision would appear to have been fairly made on the evidence.

81/WCB/14 WORKERS' COMPENSATION COMMISSION

Withdrawn

82/700/4 DEPARTMENT OF JUSTICE

A person who had served as a poll clerk in the provincial elections for a number of years complained when not appointed as such for the 1982 election.

The Ombudsman was satisfied that the explanations offered by the Chief Electoral Officer indicated that there had been no improper use of discretionary power.

82/700/9 DEPARTMENT OF JUSTICE

Same as 82/700/4

82/800/12 DEPARTMENT OF SOCIAL SERVICES

Still under investigation

82/800/43 DEPARTMENT OF SOCIAL SERVICES

A man who was in receipt of a rental allowance from the Department of Social Services in respect of an apartment occupied by him and his common-law wife complained when this allowance was withdrawn upon his status changing to that of a "single" person.

The Ombudsman concluded that the decision of the Department was in accordance with the regulations.

82/800/47 DEPARTMENT OF SOCIAL SERVICES

This complaint came from a former employee of the Department who felt in her eight year employment period that she had not received all the pay to which she was entitled.

The Ombudsman could find nothing to support that allegation.

82/1200/4 DEPARTMENT OF FOREST RESOURCES AND LANDS

A citizen complained that a neighbour was depriving him of the use of a "right of way" to his property. This right of way had been inadvertently conveyed to the neighbour by the Department.

The Ombudsman recommended to the Minister that the Department attempt to negotiate a restoration of the right of way or failing this, legal action be initiated against the holder under Section 117(2) of The Crown Lands Act.

82/1200/4 DEPARTMENT OF FOREST RESOURCES AND LANDS

(continued)

The Ombudsman's recommendation was accepted and the matter was resolved.

82/1700/8 DEPARTMENT OF TRANSPORTATION

On the first day of the year an antique car "buff" requested a certain licence plate number to correspond with the vintage of his car. He was told by a clerk at the Registration Office that numbers had to be issued in sequence.

It was unfortunate that the applicant did not get the requested number as the Registrar advised that there was in fact a policy in effect of trying to comply with such requests. Apparently the counter clerk was not aware of this policy.

82/WCB/1 WORKERS' COMPENSATION COMMISSION

A recipient of a permanent partial disability pension from the Workers' Compensation Commission claimed compensation for drugs prescribed after he had been discharged from treatment for his injury and, also having received rehabilitation training in one trade, demanded further training in another unrelated trade.

The Ombudsman could find no basis for disagreement with the Commission's decision to reject such demands.

82/WCB/2 WORKERS' COMPENSATION COMMISSION

This Workers' Compensation claimant complained when his benefits were discontinued.

The Ombudsman's review indicated no reason to question the Commission's decision.

82/WCB/4 WORKERS' COMPENSATION COMMISSION

This claimant was not satisfied with a disability award.

The Ombudsman reviewed the evidence on file and concurred in the Commission's decision.

82/WCB/5 WORKERS' COMPENSATION COMMISSION

Withdrawn

82/WCB/6 WORKERS' COMPENSATION COMMISSION

Withdrawn

82/WCB/7 WORKERS' COMPENSATION COMMISSION

Withdrawn

82/WCB/8 WORKERS' COMPENSATION COMMISSION

Withdrawn

82/WCB/9 WORKERS' COMPENSATION COMMISSION

A worker whose Workers' Compensation benefits were discontinued complained.

The Ombudsman could not disagree with the Commission's decision.

82/WCB/11 WORKERS' COMPENSATION COMMISSION

Same as 82/WCB/9

82/WCB/16 WORKERS' COMPENSATION COMMISSION

Still under investigation

82/WCB/20 WORKERS' COMPENSATION COMMISSION

Withdrawn

82/WCB/21 WORKERS' COMPENSATION COMMISSION

Cancelled

82/WCB/22 WORKERS' COMPENSATION COMMISSION

Withdrawn

82/WCB/23 WORKERS' COMPENSATION COMMISSION

Withdrawn

82/WCB/24 WORKERS' COMPENSATION COMMISSION

Withdrawn

82/WCB/25 WORKERS' COMPENSATION COMMISSION

Withdrawn

82/WCB/26 WORKERS' COMPENSATION COMMISSION

A recipient of Workers' Compensation benefits complained that his benefits had been unjustifiably suspended for a two month period.

The Ombudsman agreed and recommended that the Commission reverse its decision in this case. It did so.

82/WCB/27 WORKERS' COMPENSATION COMMISSION

Still under investigation

82/WCB/28 WORKERS' COMPENSATION COMMISSION

Same as 82/WCB/9

82/WCB/29 WORKERS' COMPENSATION COMMISSION

Same as 82/WCB/9

COMPLAINTS RECEIVED DURING 1983 BY CATEGORY

TOTAL COMPLAINTS RECEIVED	392

BREAKDOWN:

WITHIN OMBUDSMAN'S JURISDICTION	184
FEDERAL (NO JURISDICTION)	52
MUNICIPAL (NO JURISDICTION)	23
PRIVATE (NO JURISDICTION)	100
NO JURISDICTION - OTHER	18
OTHER PROVINCES (NO JURISDICTION)	6
MISCELLANEOUS (NO JURISDICTION)	9
TOTAL	392

SUMMARY OF CASES

WITHIN OMBUDSMAN'S JURISDICTION

1983

83/300/1 EXECUTIVE

This matter involved a Government employee who had difficulty in collecting salary replacement insurance for a period off work due to illness.

Some assistance was rendered.

83/300/2 EXECUTIVE

Withdrawn

83/400/1 DEPARTMENT OF FINANCE

A former Newfoundlander, now living in Nova Scotia, complained that he had not received full credit for pension purposes from employment with the Government of Newfoundland.

The Ombudsman's inquiries revealed that the employment in question was not pensionable.

83/500/1 DEPARTMENT OF LABOUR AND MANPOWER

This case involved an "error" in the issuing of a Power Engineer's Certificate. It was quickly resolved.

83/500/2 DEPARTMENT OF LABOUR AND MANPOWER

An employee complained that his employer owed him an amount in excess of one thousand dollars for wages and refused to pay.

83/500/2 DEPARTMENT OF LABOUR AND MANPOWER
(continued)

He had reported the matter to the Department of Labour and Manpower and felt that his complaint was being processed too slowly.

Contact with the Labour Standards Division revealed that action had been initiated under The Labour Standards Act to protect the employee's interest and the matter was being handled as quickly as possible.

83/500/3 DEPARTMENT OF LABOUR AND MANPOWER

Still under investigation

83/600/1 DEPARTMENT OF EDUCATION

A couple who wished to attend Memorial University for the winter semester complained regarding delay in processing their applications for loans/grants.

The Ombudsman's inquiry revealed that the applications had been approved and certificates were about to be issued.

83/600/2 DEPARTMENT OF EDUCATION

A man who had been a vocational school instructor for three years accepted a position as a supervisor of instruction. This placed him outside the instructor's bargaining unit and collective agreement.

83/600/2 DEPARTMENT OF EDUCATION

(continued)

After a number of years he reverted to an instructor's position. He contended that his seniority should have dated from his original appointment without interruption. The collective agreement provides that all seniority is forfeited after a break of thirteen consecutive months outside the bargaining unit.

The Ombudsman could see no conflict between the regulations and the collective agreement in this case.

83/600/3 DEPARTMENT OF EDUCATION

A teacher complained that he could not have his teaching service at ages sixteen and seventeen counted for pension purposes.

The Ombudsman could only reply that such is according to present regulations and that some thought was being given to an amendment which would make all teaching service "pensionable".

83/600/4 DEPARTMENT OF EDUCATION

A student who had defaulted on a previous student loan complained that he was having difficulty in obtaining a further student loan.

The Ombudsman could not assist him.

83/600/5 **DEPARTMENT OF EDUCATION**

An instructor at the College of Trades and Technology who had attended Memorial University for seven years felt that he could pay premiums for that period and have it considered as pensionable employment.

The complainant had no previous teaching service and was therefore entitled to no pension under The Education (Teachers' Pension Act).

83/700/1 **DEPARTMENT OF JUSTICE**

A citizen complained when a certificate for eligibility for legal aid was not renewed and an appeal against that decision was rejected.

The Ombudsman concurred that the Legal Aid Commission had acted quite appropriately under Section 37(3) of the Legal Aid Act which states:

> "In determining whether a person is qualified for legal aid, an area director or the Provincial Director, as the case may be shall consider the matter from the standpoint of a usual solicitor and client relationship, taking into account the possibility of success, the cost of the proceedings in relation to the anticipated loss or recovery and the likelihood of enforcing judgment."

83/700/2 **DEPARTMENT OF JUSTICE**

Withdrawn

83/700/3 DEPARTMENT OF JUSTICE

A young man who was an inmate at a mainland penitentiary complained regarding delay in returning him to Newfoundland to answer further pending charges.

The Department of Justice advised that the matter was being pursued with all possible haste and the young man was expected to be returned within about thirty days of that date.

83/700/4 DEPARTMENT OF JUSTICE

A furnace repair man was having great difficulty in collecting a small amount for a service call incurred by the Sheriff's Office and outstanding for almost two years.

When the Ombudsman brought the matter to the Department's attention, it was speedily resolved.

83/700/5 DEPARTMENT OF JUSTICE

Withdrawn

83/700/6 DEPARTMENT OF JUSTICE

A group of three persons complained that a complaint they had registered with the Human Rights Commission was not being handled as expeditiously as they would like.

83/700/6 DEPARTMENT OF JUSTICE
(continued)

The Ombudsman's inquiry revealed that the Commission was awaiting advice from the Department. The matter was expedited.

83/700/7 DEPARTMENT OF JUSTICE

Withdrawn

83/700/8 DEPARTMENT OF JUSTICE

Still under investigation

83/700/9 DEPARTMENT OF JUSTICE

The mother of a young man who had been convicted ex parte and fined $100 or in default of payment serve a twenty day prison term for causing a disturbance in a public place, complained that her son could not appear in court as scheduled because "he was in jail" serving a sentence for an unrelated offence.

Investigation showed that court had ordered forthwith payment of the fine. A Warrant of Committal was issued. The accused was subsequently arrested by police and placed in the Penitentiary. It was learned that the Warrant did not state the reason for the immediate committal as required by the Criminal Code. Representation made by the Ombudsman's Office to a senior Crown solicitor resulted in a re-appearance in the Court and time being allowed for payment of the balance of the fine.

83/700/10 DEPARTMENT OF JUSTICE

Cancelled

83/700/11 DEPARTMENT OF JUSTICE

An agitated young man visited the Ombudsman's Office and declared that he was suffering from police harassment. He alleged that this harassment came from both the Royal Newfoundland Constabulary and the Royal Canadian Mounted Police. Everywhere he drove his car, there was an RNC or RCMP car directly ahead and/or directly behind him. Recently, almost constant air surveillance of his home by RCMP helicopters had been added.

The Ombudsman and his Assistant asked the young man a few questions such as why he felt he was being subjected to such intensive surveillance by both police forces upon which he stormed out saying he "would get someone else to help him".

The young man's problem was obviously outside the competence of the Ombudsman's Office.

83/700/12 DEPARTMENT OF JUSTICE

In this case a citizen provided a copy of a letter of complaint to the Department of Justice in which it was alleged that the Royal Newfoundland Constabulary had not adequately investigated a "hit and run" accident involving some property damage.

83/700/12 DEPARTMENT OF JUSTICE

(continued)

The complainant was advised to allow a reasonable time for a reply from the Department and if it was not satisfactory to contact the Ombudsman's Office again. When no further correspondence was received after three months, the complaint was regarded as "withdrawn".

83/700/13 DEPARTMENT OF JUSTICE

Withdrawn

83/800/1 DEPARTMENT OF SOCIAL SERVICES

In this case a man was hired by the Department of Social Services on two separate occasions for work on temporary "make work" projects. On both occasions he was "let go" before eligibility for unemployment insurance was established.

The explanation offered by the Department was that the man's wife being fully employed, he was not eligible for employment on these projects and he had been hired in error.

The man expressed his understandable frustration, however he accepted the explanation.

83/800/2 DEPARTMENT OF SOCIAL SERVICES

This file was opened on the basis of copies of letters to various Department officials. While the correspondence was lengthy and far reaching, we were unable to separate anything

83/800/2 DEPARTMENT OF SOCIAL SERVICES
(continued)

specific which required the Ombudsman's attention.

83/800/3 DEPARTMENT OF SOCIAL SERVICES

A recipient of social assistance, who four years ago had been convicted and imprisoned for receiving assistance under false pretense, complained the amount so obtained was being recovered by the Department through regular deductions from current benefits.

Our complainant questioned the legality of such recovery, there having been no Court order to repay the money. The Ombudsman concurred that Sections 22 and 23 of The Social Assistance Act and Regulation 25 authorized recovery of any overpayment.

83/800/4 DEPARTMENT OF SOCIAL SERVICES

A recipient of social assistance, who had a wife and three other children, complained that no assistance was given in respect of a twenty year old unemployed son and eighteen year old daughter. The man was unable to work because of disability.

A review of the matter resulted in assistance being extended.

83/800/5 DEPARTMENT OF SOCIAL SERVICES

Withdrawn

83/800/6 DEPARTMENT OF SOCIAL SERVICES

Withdrawn

83/800/7 DEPARTMENT OF SOCIAL SERVICES

Withdrawn

83/800/8 DEPARTMENT OF SOCIAL SERVICES

Withdrawn

83/800/9 DEPARTMENT OF SOCIAL SERVICES

A recipient of social assistance complained when payment was suspended when it was established that a "common law" arrangement existed between her and her partner who was fully employed. An appeal to the Social Assistance Appeal Board upheld the suspension.

Payment of assistance was restored two months later when it was shown that the common law relationship no longer existed.

83/800/10 DEPARTMENT OF SOCIAL SERVICES

An employee of the Department, who had been injured while working, claimed she was having difficulty in getting a clear statement of her future employment status.

A comprehensive statement in this regard was provided to our complainant.

83/800/11 DEPARTMENT OF SOCIAL SERVICES

An applicant for social assistance, who moved to this Province with his family in 1982, registered the following complaints:

(1) He objected to signing a statement authorizing his bank to release information to the Department regarding his account.

(2) He did not consider the allowance cheque adequate for his family needs.

(3) He did not regard his housing accommodation as adequate.

(4) He was investigated by social workers for alleged child abuse, and objected to the investigation procedures.

(5) He had nothing but contempt and severe criticism for the Department and social workers.

The Ombudsman's investigation revealed that the complainant had been treated in a proper and courteous manner and his complaints were totally unjustified. The following is the Ombudsman's response to the complainant:

> "This office has made the inquiries considered necessary regarding your complaint against the Department of Social Services.
>
> With respect to verification of income the Department has an obligation to try to determine as far as possible the financial status of an applicant for assistance and in my opinion it is not unreasonable to request such an applicant to authorize a bank to provide account information.
>
> The social assistance rates are set by law and a social worker cannot vary those on the request or apparent need of a person seeking assistance.
>
> When the Department of Social Services receives a complaint of child abuse, it has a duty to investigate. By its very nature it is often difficult to deal with and the method of investigation would

83/800/11 DEPARTMENT OF SOCIAL SERVICES

(continued)

rarely receive the approval of the person suspected of such abuse. The degree to which any community would be aware of such an inquiry by the Department would, of course, depend on a great many factors. In this particular instance there is nothing to indicate that the inquiry was handled in other than the ordinary manner, which appears to me to be reasonable.

While the Department of Social Services attempts to provide basic necessities to families in need, one must not lose sight of the fact that the individual, not the state, has the primary responsibility of providing for himself and his family.

Please understand that my opinion or observations regarding your complaint do not preclude you from pursuing these matters through any other means you deem appropriate."

83/800/12 DEPARTMENT OF SOCIAL SERVICES

An individual had difficulty in establishing eligibility for social assistance. The Ombudsman was able to assist.

83/800/13 DEPARTMENT OF SOCIAL SERVICES

A social assistance recipient complained that some of her household effects had been damaged in the process of moving from one place of residence to another.

Since the Department had not been involved in any way in the move, it accepted no responsibility for damage. The Ombudsman concurred.

83/800/14 DEPARTMENT OF SOCIAL SERVICES

An applicant for social assistance complained when his application was turned down.

He was advised of the appeal procedure which must be pursued before the Ombudsman may become involved.

83/800/15 DEPARTMENT OF SOCIAL SERVICES

Declined under Section 15(1)(a) of The Parliamentary Commissioner (Ombudsman) Act.

83/800/16 DEPARTMENT OF SOCIAL SERVICES

Declined under Section 15(1)(a) of The Parliamentary Commissioner (Ombudsman) Act.

83/800/17 DEPARTMENT OF SOCIAL SERVICES

Declined under Section 17(2)(b)(iii) of The Parliamentary Commissioner (Ombudsman) Act.

83/800/18 DEPARTMENT OF SOCIAL SERVICES

Declined under Section 15(1)(a) of The Parliamentary Commissioner (Ombudsman) Act.

83/800/19 DEPARTMENT OF SOCIAL SERVICES

A recipient of social assistance complained that his assistance was discontinued when it was reported that he was "driving a taxi". At first, he said he did so without compensation - "just to help out", but later admitted he received some compensation but did not know how much.

He was advised to go to the owner of the taxi and get a proper statement of his earnings and provide it to his social worker. He was advised to call the Ombudsman again, if necessary. No further contact was made.

83/800/20 DEPARTMENT OF SOCIAL SERVICES

Withdrawn

83/800/21 DEPARTMENT OF SOCIAL SERVICES

A social assistance recipient whose payment was suspended for a period made a claim for "groceries" purchased during the period of suspension. The Department rejected the claim.

The Ombudsman concurred.

83/800/22 DEPARTMENT OF SOCIAL SERVICES

A lady complained that the Department was removing from her care her sister's two young children while their mother was under psychiatric care.

83/800/22 DEPARTMENT OF SOCIAL SERVICES

(continued)

The complainant later agreed that the arrangement made by the Department was more in the children's best interest. The matter was resolved.

83/800/23 DEPARTMENT OF SOCIAL SERVICES

A friend of an aged resident of an institution complained that his old friend was not getting his monthly allowance of $65.00 and, therefore, had to rely on their friendship for satisfaction of his long standing nicotine habit.

Our inquiry revealed that the gentleman in question, while prevailing on the good nature of his friend for cigarettes, was using his limited resources to "buy a scattered bottle".

He was indeed receiving his allowance but apparently it was less complicated to deny receiving it than to explain to his friend how he disposed of it.

83/800/24 DEPARTMENT OF SOCIAL SERVICES

When the fifteen year old son of a lady who was receiving social assistance left this Province to reside with his separated father, the forty seven year old mother's assistance and rental allowance were suspended. Since she was thought to be able bodied and now of single status, this was according to regulations.

83/800/24 DEPARTMENT OF SOCIAL SERVICES

(continued)

The lady said she had been receiving treatment for a nervous condition for ten years and was awaiting hospital accommodation for surgery. She was informed that benefits may be restored upon presentation of an acceptable medical certificate of disability.

83/800/25 DEPARTMENT OF SOCIAL SERVICES

Declined under Section 15(1)(a) of The Parliamentary Commissioner (Ombudsman) Act.

83/800/26 DEPARTMENT OF SOCIAL SERVICES

This recipient of social assistance complained that some three months previously he had requested assistance to acquire a stove suitable for heating and cooking purposes.

On checking with the Department it was learned that the particular stove which was to be purchased for our complainant had been sold and additional funds had to be requested. Arrangements were finally concluded to provide a suitable stove.

83/800/27 DEPARTMENT OF SOCIAL SERVICES

A recipient of social assistance complained that her monthly allowance was for an incorrect amount.

It was found to be in error. An adjustment was made.

83/800/28 DEPARTMENT OF SOCIAL SERVICES

A young man who had been off work for two weeks applied for social assistance for himself, wife and three year old child. The Department turned down his application because he had personal credit available to him while waiting for his unemployment insurance. The young man complained to the Ombudsman that it was a grave injustice to him to suggest that he buy food using his established credit.

The Ombudsman had little sympathy for this young man's attitude.

83/800/29 DEPARTMENT OF SOCIAL SERVICES

Declined under Section 15(1)(a) of The Parliamentary Commissioner (Ombudsman) Act.

83/800/30 DEPARTMENT OF SOCIAL SERVICES

Declined under Section 15(1)(a) of The Parliamentary Commissioner (Ombudsman) Act.

83/800/31 DEPARTMENT OF SOCIAL SERVICES

Declined under Section 15(1)(a) of The Parliamentary Commissioner (Ombudsman) Act.

83/800/32 DEPARTMENT OF SOCIAL SERVICES

Declined under Section 15(1)(a) of The Parliamentary Commissioner (Ombudsman) Act.

83/800/33 DEPARTMENT OF SOCIAL SERVICES

This case involved an error in the recovery of an overpayment from the complainant.

The problem was quickly resolved.

83/800/34 DEPARTMENT OF SOCIAL SERVICES

An applicant for assistance to effect repairs to his home complained when his application was turned down. Since the applicant owned a modern home, a new car, a new diesel truck and a modern twenty foot travel trailer, most of which had been purchased for "cash", the Department felt that he should use as collateral for a loan or dispose of some of this equipment to finance the necessary repairs.

The Ombudsman could muster little sympathy for our complainant's position.

83/800/35 DEPARTMENT OF SOCIAL SERVICES

In this case the complaint was that the amount of social assistance being received was not sufficient for the family's need.

The Ombudsman could only advise that the allowance was according to the regulations.

83/800/36 DEPARTMENT OF SOCIAL SERVICES

The mother of a family who had been on social assistance for a four month period learned after the husband had returned to work that she may have been entitled to rental assistance in addition to the assistance which had been received during the period of unemployment. She made application to the Department for assistance in paying arrears of rental accrued during that period.

Under Section 15(1)(a) of The Parliamentary Commissioner (Ombudsman) Act any available appeal procedure must be exhausted before involvement by the Ombudsman. The lady was informed accordingly.

83/800/37 DEPARTMENT OF SOCIAL SERVICES

A social assistance recipient complained that his allowance was insufficient to meet his family's needs.

The Ombudsman could only confirm that the amount received was that provided by law.

83/800/38 DEPARTMENT OF SOCIAL SERVICES

This case involved a dispute between the Department and a client regarding payment of a small transportation expense.

It was resolved.

83/800/39 DEPARTMENT OF SOCIAL SERVICES

Declined under Section 15(1)(a) of The Parliamentary Commissioner (Ombudsman) Act.

83/800/40 DEPARTMENT OF SOCIAL SERVICES

A lady reported to the Ombudsman that her home was badly in need of repairs.

Since she had made no application to the Department for assistance she was advised to do so.

83/800/41 DEPARTMENT OF SOCIAL SERVICES

Still under investigation

83/800/42 DEPARTMENT OF SOCIAL SERVICES

A recipient of social assistance developed a small need for extra emergency assistance.

The Department was able to look after the need.

83/800/43 DEPARTMENT OF SOCIAL SERVICES

Declined under Section 15(1)(a) of The Parliamentary Commissioner (Ombudsman) Act.

83/800/44 DEPARTMENT OF SOCIAL SERVICES

A social assistance recipient did not regard his allowance as adequate for his family's needs.

Since he was receiving the amount as provided by the regulations the Ombudsman could not assist him.

83/1000/1 DEPARTMENT OF HEALTH

A temporary employee at a hospital felt that he should be compensated for a period of time when, due to error, he was not called in to work.

Since he had other employment with more income during the period in question, the Ombudsman could not agree with his position.

83/1000/2 DEPARTMENT OF HEALTH

A misunderstanding between the Department and a supplier of professional services resulted in delay in payment of an invoice.

The matter was resolved.

83/1000/3 DEPARTMENT OF HEALTH

An employee of the Department objected to the recovery of an overpayment of his salary which was paid to him in error.

83/1000/3 DEPARTMENT OF HEALTH

(continued)

In the Ombudsman's opinion the recovery of the overpayment was in order.

83/1000/4 DEPARTMENT OF HEALTH

A supplier of professional services to the Department wished to receive interest payment on overdue account due to him from the Department.

He was advised of the regulations covering application for such payment.

83/1000/5 DEPARTMENT OF HEALTH

Request for information only.

83/1000/6 DEPARTMENT OF HEALTH

An employee of the Department who was retained after his sixty fifth birthday complained that his medical and life insurance coverage was discontinued when he became sixty five.

The Ombudsman could not help as this action was in accordance with the contract between Government and the insurance company.

83/1200/1 DEPARTMENT OF FOREST RESOURCES AND LANDS

Withdrawn

83/1200/2 DEPARTMENT OF FOREST RESOURCES AND LANDS

Withdrawn

83/1200/3 DEPARTMENT OF FOREST RESOURCES AND LANDS

The complainant in this case contended that a certain applicant for a grant of Crown land, under the squatters' rights provisions of The Crown Lands Act, had misrepresented the facts in his application.

Our complainant had built a house on a portion of the land in question. He had done so with the knowledge and consent of the applicant (a relative). The applicant prevailed upon the complainant to indicate in writing to the Crown Lands Office that he had no claim to the land in question. In return the applicant on receiving a grant would properly convey that land to him. A grant was issued to the applicant but he refused to honour his commitment to our complainant. The latter now sought the assistance of the Ombudsman in resolving the matter.

In the circumstances the Ombudsman could make no recommendation on the complainant's behalf.

83/1200/4 DEPARTMENT OF FOREST RESOURCES AND LANDS

Withdrawn

83/1300/1 DEPARTMENT OF CULTURE, RECREATION AND YOUTH

Still under investigation

83/1300/2 DEPARTMENT OF CULTURE, RECREATION AND YOUTH

Withdrawn

83/1300/3 DEPARTMENT OF CULTURE, RECREATION AND YOUTH

A resident complained that his caribou hunting licence was cancelled by the Wildlife Division because he had unknowingly killed a female caribou whereas his licence specified "male only". He felt the licence should be reinstated and sought the Ombudsman's assistance in that regard.

While it is acknowledged that it can be difficult at times, depending on distance, light conditions, location, etc. and because some female caribou have antlers, to distinguish the sex of the animal, nevertheless it is incumbent on the hunter to make that determination prior to killing the animal.

Having considered all aspects of the matter, the Ombudsman could not make a recommendation in favour of the complainant.

83/1500/1 DEPARTMENT OF DEVELOPMENT

A former management employee of Newfoundland Fibryply Limited requested the assistance of the Ombudsman in obtaining severance pay on the discontinuance of the operations of that agency.

There being no agreement or understanding in that regard, there was no assistance possible from the Ombudsman's Office.

83/1500/2 DEPARTMENT OF DEVELOPMENT

Withdrawn

83/1600/1 DEPARTMENT OF RURAL, AGRICULTURAL AND NORTHERN DEVELOPMENT

One of the partners in a small defunct business complained that both partners had been sued for default in their Rural Development loan, however only his wages were being garnisheed.

The Ombudsman's inquiries revealed that the other partner was unemployed and his wages too would be attached if and when he became gainfully employed.

83/1600/2 DEPARTMENT OF RURAL, AGRICULTURAL AND NORTHERN DEVELOPMENT

A co-op shareholder wished to withdraw his shares. The policy of the co-operative was that no more than twenty-five percent of members total capital per annum could be withdrawn.

83/1600/2 DEPARTMENT OF RURAL, AGRICULTURAL AND NORTHERN DEVELOPMENT

(continued)

Our complainant's request was placed on a waiting list and would be dealt with in approximately seven or eight months. The Ombudsman regarded this as a legitimate policy.

83/1600/3 DEPARTMENT OF RURAL, AGRICULTURAL AND NORTHERN DEVELOPMENT

One of a group of employees who had registered an appeal for reclassification of their positions resigned before a decision was rendered. The decision was favourable to the applicants and included substantial retroactive pay. The individual who had resigned complained when she was told that she was not entitled to any retroactive consideration in respect of her former employment.

The Ombudsman's recommendation, which was concurred in by the Appeal Board, resulted in Treasury Board approval for retroactive pay in this case and in future similar cases.

83/1700/1 DEPARTMENT OF TRANSPORTATION

An applicant for a position as heavy duty mechanic was disturbed when he was adjudged as unqualified and denied an interview for the position despite the fact that he held an interprovincial heavy duty certificate.

83/1700/1 DEPARTMENT OF TRANSPORTATION

(continued)

The Ombudsman's inquiry determined that his certificate should have been recognized. He was given an interview, together with an apology.

83/1700/2 DEPARTMENT OF TRANSPORTATION

A citizen complained that he had damaged his car in driving over a "pot hole". He asked the Ombudsman what action he should take. It was suggested that he may claim against his insurance company.

He could make a claim against the Department but such a claim would be very difficult or impossible to sustain.

83/1700/3 DEPARTMENT OF TRANSPORTATION

A contractual employee was dismissed from his employment for cause. He appealed to his union and a Board of Arbitration reversed the decision of dismissal and substituted a period of suspension without pay. The employee regarded the decision of the Arbitration Board as unjust.

The Ombudsman declined involvement.

83/1700/4 DEPARTMENT OF TRANSPORTATION

A citizen complained that the Department had constructed a road through his land and refused to compensate him. Inquiry revealed that the complainant held no clear title to the land in question and, therefore, could not receive compensation.

Since his claim to ownership involved a large area of land, he was advised to consult legal counsel with a view to establishing title under The Quieting of Titles Act.

83/1700/5 DEPARTMENT OF TRANSPORTATION

A citizen complained that the Department refused to maintain a private road leading to his property.

The Ombudsman could not assist him.

83/1700/6 DEPARTMENT OF TRANSPORTATION

An employee of the Department complained that he was displaced by another employee with more seniority. He also complained that he received no advance notice of his displacement.

It was confirmed that the action taken was in accordance with the collective agreement.

83/1700/7 DEPARTMENT OF TRANSPORTATION

In this case a citizen's drivers licence was not renewed because he had outstanding traffic tickets.

It was found to be in error and the necessary clearance promptly provided.

83/1700/8 DEPARTMENT OF TRANSPORTATION

In this case the Department refused to pay claim for damage to a truck camper. The lady driving the truck said she had "been flagged" through a section of the highway where construction was proceeding but she collided with a Department truck which was in a stationary position.

The lady was advised that her only recourse would be through legal action against the Department.

83/1700/9 DEPARTMENT OF TRANSPORTATION

A lady who purchased a new automobile in another Province was told that she must pay twelve percent retail sales tax before the vehicle could be registered in this Province. She had already paid ten percent in the Province where she had purchased the car.

In discussion of this matter with the complainant the Ombudsman learned that she had been continuously outside Newfoundland for slightly longer than six months and, therefore, her new car should be tax exempt under "settlers' effects". The Ombudsman recommended accordingly. The Department concurred.

83/1700/10 DEPARTMENT OF TRANSPORTATION

The owner of an accommodation's establishment (motel, lounge, dining room) complained that since she had not participated in the "paid" road signs program, one of such signs read "next services" twenty seven km. when her premises was located only four km.

The Ombudsman brought this to the attention of the Department who agreed it was unfair. The matter was adjusted satisfactorily.

83/1700/11 DEPARTMENT OF TRANSPORTATION

A citizen complained that she had not received acknowledgement or payment of a small claim for damages as a result of an accident involving her vehicle and one owned by the Department.

The Ombudsman's inquiry revealed that the claim had been approved and payment was being processed.

83/1700/12 DEPARTMENT OF TRANSPORTATION

This complainant felt that he should have a Newfoundland driver's licence issued on the strength of his International driver's permit without having to take prescribed tests.

He was informed that such tests were required by law before a Newfoundland driver's licence could be issued.

83/1700/13 DEPARTMENT OF TRANSPORTATION

A mother complained on behalf of her son with regard to suspension of his driver's licence. Five years ago the young man's licence was suspended upon conviction for impaired driving. As a result of repeated disregard for and violations of suspension orders he had reached the point where his driver's licence stands suspended until 1992.

No assistance possible.

83/1700/14 DEPARTMENT OF TRANSPORTATION

A motorist who failed to renew his driver's licence for over three years complained about the requirement of being re-tested before a renewal could be issued.

It was confirmed that such a requirement is according to regulations.

83/1700/15 DEPARTMENT OF TRANSPORTATION

Withdrawn

83/1700/16 DEPARTMENT OF TRANSPORTATION

An employee of the Department alleged that he was not being fully compensated for overtime worked.

The records showed that he was in error.

83/1700/17 DEPARTMENT OF TRANSPORTATION

Same as 83/1700/16.

83/1700/18 DEPARTMENT OF TRANSPORTATION

Upon applying for a renewal of her driver's licence, a lady was informed by the Motor Registration Division that she had not held a valid driver's licence for three years and, therefore, she must submit to a test before renewal. Although she claimed that she had renewed each year, she could not produce any proof.

The records of the Department must prevail in such cases.

83/1700/19 DEPARTMENT OF TRANSPORTATION

In this case a motorist who had a number of suspensions of driver's licence claimed that one of these suspensions was in error.

The Ombudsman's inquiry revealed that in fact an administrative error had been made. It was corrected.

83/1700/20 DEPARTMENT OF TRANSPORTATION

A motorist claimed that he had sustained damage to a tire because of a highway condition. The Department's legal officers recommended that the claim be denied.

The Ombudsman advised the complainant that his only recourse would be through a legal action.

83/1700/21 DEPARTMENT OF TRANSPORTATION

A citizen complained that a section of roadway which was under the Department's control was in need of upgrading.

The Ombudsman declined involvement. The allocation of public funds for roads, bridges and other public improvements is regarded as a matter of policy and outside the Ombudsman's jurisdiction.

83/1700/22 DEPARTMENT OF TRANSPORTATION

Withdrawn

83/1700/23 DEPARTMENT OF TRANSPORTATION

A motorist claimed that while he had renewed his driver's licence each year the Department's record showed that he had not held a licence for a number of years.

In the absence of proof to the contrary, the Department's record must prevail.

83/1700/24 DEPARTMENT OF TRANSPORTATION

A property owner complained that his driveway, his fence, and his well had been damaged by the Department.

Inquiry revealed that the driveway had been satisfactorily repaired and the fence and well had in no way been interfered with by the Department as they were far removed from any Department activity.

83/1700/25 DEPARTMENT OF TRANSPORTATION

An employee of the Department complained that disciplinary action taken against him some five years previously had been unduly severe.

The Ombudsman's inquiries revealed that:

(1) the employee concerned had admitted committing the offence at the time;

(2) he had declined arbitration at the time;

(3) the disciplinary action appeared to be appropriate.

83/1700/26 DEPARTMENT OF TRANSPORTATION

Still under investigation

83/1800/1 DEPARTMENT OF PUBLIC WORKS AND SERVICES

Withdrawn

83/1800/2 DEPARTMENT OF PUBLIC WORKS AND SERVICES

This complaint involved the question of whether or not a catering contract had been properly awarded by the Winter Games Committee in Goose Bay, Labrador.

Although this matter would be technically outside the Ombudsman's jurisdiction, as it is not a complaint against the Department of Public Works but rather against a community

83/1800/2 DEPARTMENT OF PUBLIC WORKS AND SERVICES

(continued)

committee, it was learned that the contract was awarded to the lowest bidder who appeared to have the capacity to perform.

83/1800/3 DEPARTMENT OF PUBLIC WORKS AND SERVICES

Withdrawn

83/1800/4 DEPARTMENT OF PUBLIC WORKS AND SERVICES

A firm which had been providing printing service under contract to the Government complained when that contract was not renewed and the Government's own Printing Division produced the required material.

By its nature this was not a matter for the Ombudsman's Office to investigate.

83/1900/1 DEPARTMENT OF MUNICIPAL AFFAIRS

A person constructed a house off a public road where no building is permitted. The matter was brought to Court and a removal order issued. The complainant felt this to be unfair.

The Ombudsman could not support that contention.

83/1900/2 DEPARTMENT OF MUNICIPAL AFFAIRS

This complainant had difficulty in getting information as to when flood damage assessment to his property would be carried out.

The necessary information was obtained and conveyed to him.

83/1900/3 DEPARTMENT OF MUNICIPAL AFFAIRS

A would be candidate for municipal election complained of the residency requirement in that regard. He had been a resident of the town in which he wished to seek election to council for four months. The law requires that it be for a minimum of six months.

The Ombudsman could not assist.

83/NLHC/1 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

A tenant of Newfoundland and Labrador Housing Corporation complained of difficulty in getting the landlord to repair leaks in the apartment roof.

Contact by the Ombudsman's Office with the Corporation revealed that a contract had been made to have the repairs effected but it could not be completed in the present frosty weather. As soon as the temperature conditions would permit the work would be completed.

83/NLHC/2 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

A tenant of Newfoundland and Labrador Housing Corporation complained that during a period of tenancy in another unit her furniture and clothing received moisture damage and the landlord refused to accept any responsibility in that regard. In addition, she had now received a notice to vacate her present unit because of arrears of rent.

The Corporation advised that they had thoroughly inspected the unit in question and could find no evidence of moisture penetration and concluded that the moisture condition was due to lack of heat and ventilation which were both under the control of the tenant. Notwithstanding this, it had already paid for drycleaning of drapes and clothing which was satisfactory to the tenant.

With regard to arrears of rent, because of the complainant's limited income and other problems, arrangements were made by Newfoundland and Labrador Housing Corporation to provide accommodation in a subsidized unit and to pay the overdue rent on suitable installments.

83/NLHC/3 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

A successful applicant for subsidized housing accommodation with Newfoundland and Labrador Housing Corporation rejected the Corporation's offer because he did not wish to reside in those

83/NLHC/3 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

(continued)

areas of the City of St. John's where the apartments were located. He sought the Ombudsman's assistance in acquiring another Newfoundland and Labrador Housing Corporation unit.

The Ombudsman's Office would only become involved in such a complaint if there was some suggestion of improper handling of an application. In this instance there was no such suggestion.

83/NLHC/4 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

A tenant complained of a 16.9 percent rent increase while "the Government" was limiting salary increases to its employees to five and six percent.

The Ombudsman could see no connection between increases in employees' salaries and increases in rents by a Crown Corporation.

83/NLHC/5 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

A citizen requested the Ombudsman's intervention in obtaining subsidized rental accommodation.

The Ombudsman declined any involvement in the selection procedure of tenants for such accommodation.

83/NLHC/6 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

Still under investigation

83/NLHC/7 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

Withdrawn

83/NLHC/8 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

Withdrawn

83/NLHC/9 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

Same as 83/NLHC/5

83/NLHC/10 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

A man complained that his Newfoundland and Labrador Housing Corporation mortgage had been renewed for a five year term whereas he alleged that he had selected the one year renewal by mail. The Corporation had no record of any such instruction having been received.

The Ombudsman concluded that the action of renewing the mortgage for five years, in the circumstances, was proper.

83/NLHC/11 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

Withdrawn

83/NLHC/12 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

An applicant for a subsidized rental unit complained that her application was not receiving the priority which it deserved.

The Corporation assured the Ombudsman that such was not the case.

83/NLHC/13 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

A lady who two months previously had applied for a subsidized rental accommodation complained that the process was too slow.

In view of the large demand and relatively small supply of accommodations, the Ombudsman did not regard the complaint as justified.

83/NLHC/14 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

Same as 83/NLHC/12

83/NLHC/15 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

A tenant of Newfoundland and Labrador Housing Corporation had to vacate his residence due to fire damage. He was placed in an NLHC unit in another town. For a number of reasons he was not entirely satisfied with that and requested accommodation in a community where he had previously lived. The Corporation had decided not to repair the house he had occupied and disposed of it. There was no other unit available for rent. He contended that the Corporation had an obligation to find suitable accommodation for him in the desired location.

In the circumstances there was no basis on which the Ombudsman could make a recommendation in the complainant's favour.

83/NLHC/16 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

Same as 83/NLHC/12

83/NLHC/17 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

An elderly tenant complained that for years birds had been entering apartments through kitchen and bathroom ventilators; building nests, creating noise and being a general nuisance. The tenant said the Corporation had been promising correction action for years.

A discussion with officials of the Corporation resulted in quick action and a letter of appreciation from our complainant.

83/NLHC/18 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

A young man complained that he was having difficulty in getting rental accommodation. The problem was one of small supply and big demand.

The Ombudsman could not assist.

83/NLHC/19 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

A man who refused payments on his mortgage because the "clapboard was falling off" complained that when he was dispossessed the Corporation repaired the house for another occupant.

The Ombudsman was unable to follow the logic of his complaint or to assist him.

83/NLHC/20 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

On July 5 a tenant complained a problem of a leaky roof was not being taken care of. The matter was taken up with the Corporation.

On July 18 a follow up with Newfoundland and Labrador Housing Corporation revealed that the repairs had been done.

83/NLHC/21 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

An applicant for rental accommodation requested the

83/NLHC/21 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

(continued)

Ombudsman's intervention in expediting her application.

The Ombudsman could not assist.

83/NLHC/22 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

Same as 83/NLHC/21

83/NLHC/23 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

Same as 83/NLHC/21

83/NLHC/24 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

Same as 83/NLHC/21

83/NLHC/25 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

Same as 83/NLHC/21

83/NLHC/26 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

Same as 83/NLHC/21

83/NLHC/27 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

Withdrawn

83/NLHC/28 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

Same as 83/NLHC/21

83/NLHC/29 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

Withdrawn

83/NLHC/30 NEWFOUNDLAND AND LABRADOR HOUSING CORPORATION

Same as 83/NLHC/21

83/WCB/1 WORKERS' COMPENSATION COMMISSION

Still under investigation

83/WCB/2 WORKERS' COMPENSATION COMMISSION

The complainant in this case felt that his Workers' Compensation benefits should not have been discontinued.

The file was reviewed and it appeared the decision was justified.

83/WCB/3 WORKERS' COMPENSATION COMMISSION

A recipient of Workers' Compensation benefits felt that he should be receiving a pension in addition to full disability benefits.

Obviously he had been misinformed.

83/WCB/4 WORKERS' COMPENSATION COMMISSION

Same as 83/WCB/2

83/WCB/5 WORKERS' COMPENSATION COMMISSION

Same as 83/WCB/2

83/WCB/6 WORKERS' COMPENSATION COMMISSION

Withdrawn

83/WCB/7 WORKERS' COMPENSATION COMMISSION

Same as 83/WCB/2

83/WCB/8 WORKERS' COMPENSATION COMMISSION

Same as 83/WCB/2

83/WCB/9 WORKERS' COMPENSATION COMMISSION

Same as 83/WCB/2

83/WCB/10 WORKERS' COMPENSATION COMMISSION

Same as 83/WCB/2

83/WCB/11 WORKERS' COMPENSATION COMMISSION

A man who had received compensation for hearing loss suddenly developed a problem with his arm.

83/WCB/11 WORKERS' COMPENSATION COMMISSION
(continued)

He was advised to inform the Commission so that his claim could be assessed.

83/WCB/12 WORKERS' COMPENSATION COMMISSION

Still under investigation

83/WCB/13 WORKERS' COMPENSATION COMMISSION

Still under investigation

83/WCB/14 WORKERS' COMPENSATION COMMISSION

Still under investigation

83/WCB/15 WORKERS' COMPENSATION COMMISSION

Still under investigation

83/WCB/16 WORKERS' COMPENSATION COMMISSION

A recipient of a rehabilitation allowance complained that it was insufficient.

Since the amount was according to regulations, the Ombudsman could not assist.

83/WCB/17 WORKERS' COMPENSATION COMMISSION

The recipient of a long term partial disability pension wished to have part of his pension commuted in order that he could retire a mortgage on his home.

His request was complied with.

83/WCB/18 WORKERS' COMPENSATION COMMISSION

A young lady who worked as a "baby sitter" while a mother came to St. John's regarding her Workers' Compensation claim, was compensated for this service by the Commission.

She was owed money for "baby sitting" on other occasions and was having collection difficulties.

No assistance was possible.

83/WCB/19 WORKERS' COMPENSATION COMMISSION

Same as 83/WCB/2

83/WCB/20 WORKERS' COMPENSATION COMMISSION

Withdrawn

83/WCB/21 WORKERS' COMPENSATION COMMISSION

A claim for compensation was denied because it was not established that an "on the job" accident occurred.

83/WCB/22 WORKERS' COMPENSATION COMMISSION

(continued)

The Ombudsman reviewed the file and concurred that the accident had not been substantiated.

83/WCB/23 WORKERS' COMPENSATION COMMISSION

Still under investigation

83/WCB/24 WORKERS' COMPENSATION COMMISSION

Still under investigation

83/WCB/25 WORKERS' COMPENSATION COMMISSION

A man's compensation payment was suspended for a specific period during which it appeared that he was not under active medical treatment. He provided certain evidence to the Ombudsman which he had not presented to the Commission.

On presentation of this evidence the decision to suspend benefits was reversed.

83/MCP/1 MEDICAL CARE COMMISSION

This case involved some difficulty in establishing pension rights by a former employee of the Commission.

The matter was satisfactorily resolved with some assistance from the Ombudsman.

83/MCP/2 MEDICAL CARE COMMISSION

A former resident of Newfoundland who moved to British Columbia complained of difficulty in showing eligibility for payment of medical services rendered.

The matter was resolved.

83/H/1 NEWFOUNDLAND AND LABRADOR HYDRO CORPORATION

A citizen complained that some substance placed on a utility pole near his home had blown off and caused damage to his house. It was learned that an official would soon be visiting the area to negotiate a settlement.

Our complainant was advised to contact the Ombudsman again, if necessary.

83/H/2 NEWFOUNDLAND AND LABRADOR HYDRO CORPORATION

A young man complained that the "local preference" policy on hiring for the Cat Arm project was depriving him of employment as he did not reside in the area.

No assistance was possible.

83/PPC/1 PIPPY PARK COMMISSION

A resident of an area within the Pippy Park boundary complained that the park boundary bisected his one acre lot placing the large proportion of his land inside. He claimed that he had an offer to sell his land if a boundary realignment were to place it outside the park boundary.

The Commission refused a boundary change. However, purchase of the land would be considered by them if a formal offer to sell were made.

83/WH/1 WATERFORD HOSPITAL

A patient at the Waterford Hospital requested that he be transferred to a similar institution in Alberta. He was advised that there is no provision for such transfer.

83/WH/2 WATERFORD HOSPITAL

A patient at the Waterford Hospital complained that his detention at that institution was out of order.

Inquiry revealed that the person in question was properly detained.

83/WH/3 WATERFORD HOSPITAL

Same as 83/WH/2

83/WH/4 WATERFORD HOSPITAL

A visitor to a relative at the Waterford Hospital wrote a long letter containing complaints and observations which she had accumulated over a period of time.

None of the several allegations could be substantiated.

83/PSC/1 PUBLIC SERVICE COMMISSION

Withdrawn

83/NLC/1 NEWFOUNDLAND LIQUOR CORPORATION

An alert customer of the Newfoundland Liquor Corporation noted that when the new 375 ml. "flasks" of a certain liquor were added to the old stock of 341 ml. "flasks" on the shelves, the price was $7.25 for both, notwithstanding the smaller quantity in the old stock flasks. With healthy cynicism, he complained to the Ombudsman and was much consoled when the Ombudsman conveyed to him the result of his inquiry. Rather than a "rip-off" it was a bonanza - the regular price of the 341 ml. flask was being maintained on both sizes until the old stock was exhausted. The reader may well ask how the Corporation ever managed to dispose of the 341 ml. stock sitting on the shelf beside the 375 ml. stock for the same price.

It will have to be recorded as one of the miracles of modern merchandising.

83/FOI/1 FREEDOM OF INFORMATION

Under The Freedom of Information Act a lawyer representing a Workers' Compensation claimant applied to the Workers' Compensation Commission for the release of any and all internal memoranda concerning his client's claim. The Commission refused. The lawyer contacted the Ombudsman who recommended that the information be provided. The Commission again refused.

It is not known if the lawyer pursued the question to the Supreme Court as provided by The Freedom of Information Act.

83/FOI/2 FREEDOM OF INFORMATION

A former patient of the Waterford Hospital requested access to his complete file at the institution. The Hospital refused.

It was the Ombudsman's recommendation that The Freedom of Information Act requires that the information be released. The hospital rejected the Ombudsman's recommendation. The person requesting the information was advised of his right to appeal to the Supreme Court.

83/FOI/3 FREEDOM OF INFORMATION

The lawyer of a former employee of a hospital which operates under The Hospitals Act 1977, requested information

83/FOI/3 FREEDOM OF INFORMATION
(continued)

under The Freedom of Information Act relating to his client's employment at that institution. The hospital refused. The lawyer requested a review of the matter by the Ombudsman as provided for by The Freedom of Information Act.

The Ombudsman recommended to the hospital that the information be released. The hospital would not concur in the Ombudsman's recommendation. It is not known if the matter was pursued through the Supreme Court as provided for in the Act.

83/FOI/4 FREEDOM OF INFORMATION

An officer of an employee's association requested certain information from the Minister of Finance. The request was made pursuant to The Freedom of Information Act. When no response was received from the Minister within the prescribed thirty day period, the matter was referred to the Ombudsman.

The Minister informed the Ombudsman that a few additional days had been required for consideration of the request, however it had now been fully met.

83/FOI/5 FREEDOM OF INFORMATION

A lady requested certain information from the Department of Social Services under The Freedom of Information Act. If this could not be provided, she stated an alternate request for

83/FOI/5 **FREEDOM OF INFORMATION**

(continued)

information. The original request was properly denied, however the alternate request was overlooked.

It was promptly provided when the oversight was called to the Department's attention.

83/FOI/6 **FREEDOM OF INFORMATION**

Still under investigation

SOURCE OF COMPLAINTS BY COMMUNITY

AND NUMBER OF COMPLAINTS FROM EACH

1983

APPENDIX I

SOURCE OF COMPLAINTS BY COMMUNITY AND NUMBER OF COMPLAINTS FROM EACH

Admiral's Beach	1
Baie Verte, White Bay	2
Bay Bulls	1
Bay Roberts, Conception Bay	1
Beachy Cove	1
Belleoram	2
Bell Island	4
Bishops Falls	5
Boat Harbour West, Placentia Bay	1
Bonavista	2
Botwood	1
Brigus, Conception Bay	1
Buchans	3
Burgeo	1
Burin	4
Burlington, Green Bay	1
Cape Ray	1
Cappahayden	1
Carbonear	5
Carmanville	1
Carter's Cove, Notre Dame Bay	1
Catalina, Trinity Bay	1
Centreville, Bonavista Bay	1
Champney's West, Trinity Bay	2
Clarenville, Trinity Bay	4
Coachman's Cove, Bonavista Bay	2
Cobb's Arm, Notre Dame Bay	1
Come-By-Chance, Trinity Bay	1
Comfort Cove, Notre Dame Bay	2
Conception Harbour	1
Conne River, Bay D'Espoir	1
Cormack	1
Corner Brook	16
Cox's Cove, Bay of Islands	3
Cupids	1
Cuslett, Cape Shore	1
Deer Lake	2
Daniel's Harbour	1
Dunville, Placentia Bay	2
English Harbour, Trinity Bay	1

SOURCE OF COMPLAINTS BY COMMUNITY AND NUMBER OF COMPLAINTS FROM EACH

Fogo	2
Fortune	1
Fox Harbour, Placentia Bay	1
Foxtrap, Conception Bay	5
Gambo	1
Gander	4
Gander Bay	1
Glovertown	3
Goobies	2
Goose Bay, Labrador	2
Goulds	4
Grand Bank	2
Grand Falls	9
Grand LePierre, Fortune Bay	1
Gull Island, Conception Bay	1
Happy Valley, Labrador	3
Harbour Grace	2
Harbour Main, Conception Bay	1
Head Bay D'Espoir	1
Heart's Desire, Trinity Bay	1
Hickman's Harbour, Random Island	1
Holyrood	1
Ivany's Cove, Trinity Bay	1
Jackson's Arm	1
Jerseyside, Placentia Bay	1
Kelligrews, Conception Bay	2
Labrador City	1
Lamaline	1
Leading Tickles	2
Lewisporte	1
Little Catalina, Trinity Bay	2
Long Beach, Conception Bay	1
Long Pond, Manuels	2

SOURCE OF COMPLAINTS BY COMMUNITY AND NUMBER OF COMPLAINTS FROM EACH

Manuels, Conception Bay	4
Marystown	3
Melrose, Trinity Bay	1
Miles Cove, Green Bay	1
Milltown, Bay D'Espoir	1
Mount Moriah	1
Mount Pearl	17
New Harbour, Trinity Bay	2
Norris Arm	1
Norris Point	1
North West Brook, Trinity Bay	1
Old Perlican, Trinity Bay	1
Outer Cove	1
Paradise, Conception Bay	5
Parsons Pond	1
Pasadena	4
Petty Harbour	2
Placentia	2
Point Leamington	1
Point of Bay (Botwood)	1
Port aux Basques	2
Port aux Choix	1
Portugal Cove	2
Port Union, Trinity Bay	2
Pouch Cove	2
Ramea	1
Random Island	1
Roberts Arm, Green Bay	1
Rocky Harbour	1
Seal Cove, Conception Bay	1
Seal Cove, White Bay	1
Shearstown, Conception Bay	1
Shoal Harbour	1
South East Placentia	1
St. Anthony	1
St. Brendans, Bonavista Bay	1
St. Brides, St. Mary's Bay	2
Stephenville	6
Stephenville Crossing	1

SOURCE OF COMPLAINTS BY COMMUNITY AND NUMBER OF COMPLAINTS FROM EACH

St. Georges	1
St. John's	135
St. Lawrence	1
St. Phillips	1
Tilton, Conception Bay	2
Topsail, Conception Bay	2
Torbay	3
Townside, Placentia	1
Trepassey	2
Twillingate	1
Upper Gullies, Conception Bay	1
Upper Island Cove	3
Wareham, Bonavista Bay	1
Wesleyville	1
Western Bay, Conception Bay	1
Whitbourne	1
Winterton, Trinity Bay	1

OTHER PROVINCES

Amherst, Nova Scotia	1
Dawson Creek, British Columbia	1
Dorchester, New Brunswick	2
Kingston, Ontario	1
Toronto, Ontario	1

THE PARLIAMENTARY COMMISSIONER (OMBUDSMAN) ACT

APPENDIX II

NEWFOUNDLAND

THE REVISED STATUTES OF NEWFOUNDLAND, 1970.

CHAPTER 285

An Act to Provide for the Appointment of a Parliamentary Commissioner to Investigate Administrative Decisions and Acts of Officials of the Government of the Province and its Agencies and to Define the Parliamentary Commissioner's Powers, Duties and Functions.

Short title.

1. This Act may be cited as The Parliamentary Commissioner (Ombudsman) Act.

Interpretation.

2.—(1) In this Act

(a) "agency" means any agency of Her Majesty or of Her Majesty's Government and includes The Workmen's Compensation Board referred to in The Workmen's Compensation Act, and, subject to subsection (2) of this Section 2, any body deemed to be an agency for the purposes of this Act by order of the Lieutenant-Governor in Council upon the recommendation of the House of Assembly;

(b) "Commissioner" means the Parliamentary Commissioner appointed under this Act;

(c) "Department" means any department of the Government of the province;

(d) "Her Majesty" means Her Majesty in right of the province; and

(e) "Minister" means any of Her Majesty's Ministers.

When Lieutenant-Governor may make an order deeming any body an agency for the purposes of this Act.

(2) The Lieutenant-Governor in Council may, while the House of Assembly is not in Session, make an order deeming any body specified in the order to be an agency for the purposes of this Act, but if such order is not confirmed by the House of Assembly within one month after the commencement of the next ensuing regular Session thereof, such order ceases to have any force and effect.

Administration.

3. The Minister of Justice is charged with the administration of this Act.

Appointment of Parliamentary Commissioner.

4.—(1) There shall be appointed, as an officer of the Legislature of the province, a commissioner for investigations to be called the Parliamentary Commissioner.

Idem.

(2) Subject to Section 8, the Lieutenant-Governor in Council shall appoint the Commissioner on the recommendation of the House of Assembly.

Commissioner not a civil servant or an employee of the province for pension purposes.

(3) No person shall be deemed to be

(a) a civil servant for the purposes of The Civil Service Act; or

(b) an employee for the purposes of The Public Service (Pensions) Act,

by reason of his appointment as Commissioner.

Restriction as to holding other offices.

5. The Commissioner may not be a member of the House of Assembly and shall not hold any office of trust or profit, other than his office as Commissioner, or engage in any occupation for regard outside the duties of his office.

Tenure of office of Commissioner.

6.—(1) Unless his office sooner becomes vacant, a person appointed as Commissioner holds office for ten years

(a) from the date of his appointment under Section 4; or

(b) from the date of his appointment under Section 8 is confirmed under that section,

and any person, if otherwise qualified, may be reappointed as Commissioner.

Resignation of Commissioner.

(2) The Commissioner may at any time resign his office by writing addressed to the Speaker of the House of Assembly or to the Premier of the province if there is no Speaker or if the Speaker is absent from the province.

Commissioner not to serve after reaching the age of seventy.

(3) A person shall not, unless the Lieutenant-Governor in Council otherwise directs, hold office as Commissioner beyond the day on which he attains the age of seventy years.

Suspension or removal from office.

7.—(1) On the recommendation of the House of Assembly, the Lieutenant-Governor in Council may, at any time, suspend or remove the Commissioner from his office for disability, neglect of duty, misconduct or bankruptcy.

Idem; where House of Assembly not in Session.

(2) At any time the Legislature is not in Session, the Lieutenant-Governor in Council may suspend the Commissioner from his office for disability, neglect of duty, misconduct or bankruptcy proved to the satisfaction of the Lieutenant-Governor in Council, but the suspension shall not continue in force beyond the end of the next ensuing Session of the Legislature.

Vacancy in office.

8.—(1) If the Commissioner dies, retires, resigns or is removed from office, the vacancy thereby created shall be filled in accordance with this section.

Idem.

(2) If any vacancy referred to in subsection (1) occurs while the Legislature is in Session, but no recommendation is made by the House of Assembly before the close of that Session, subsection (3) applies as if that vacancy had occurred while the Legislature was not in Session.

Idem.

(3) If any vacancy referred to in subsection (1) occurs while the Legislature is not in Session, the Lieutenant-Governor in Council may appoint a Commissioner to fill the vacancy and, unless his office sooner becomes vacant, the person so appointed holds office until his appointment is confirmed by the House of Assembly.

Idem.

(4) If an appointment under subsection (3) is not confirmed within two months after the commencement of the next ensuing regular Session of the House of Assembly, the appointment lapses and there shall be deemed to be another vacancy in the office of Commissioner.

Salary of Commissioner.

9.—(1) The Commissioner shall be paid, by monthly instalments, an annual salary of twenty thousand dollars ($20,000.00).

Expenses of Commissioner.

(2) There shall be paid to the Commissioner in respect of time spent in travelling in the exercise of his functions, such travelling allowances and expenses as may be prescribed by the Lieutenant-Governor in Council.

Payments under this section to come from Consolidated Revenue Fund.

(3) Any payments paid under this section shall be chargeable to and paid out of the Consolidated Revenue Fund.

Oath of office to be taken by Commissioner.

10.—(1) Before entering upon his duties, the Commissioner shall take and subscribe the following oath of office:

> "I, ...
> of ..... in the Province of Newfoundland, ...,
> do solemnly swear that I will faithfully, truly, impartially, honestly, justly and to the best of my judgment, skill and ability, execute and perform the powers, duties and functions reposed in or required of me as Parliamentary Commissioner under The Parliamentary Commissioner (Ombudsman) Act, as now or hereafter amended, and that I will not, except in accordance with subsection (2) of Section 22 of the said Act or otherwise to give effect to the said Act, divulge any information received by me in the execution and performance of my powers, duties and functions under the said Act. So help me God.".

Administration of oath.

(2) The oath referred to in subsection (1) shall be administered by the Speaker of the House of Assembly or by the Clerk of the House of Assembly.

Staff of Commissioner.

11.—(1) Subject to the provisions of this section, the Commissioner may appoint such officers and other employees as

may be necessary for the efficient carrying out of his powers, duties and functions under this Act.

Number of staff.

(2) The number of persons that may be appointed under this section, whether generally or in respect of any specified duties or functions or class of duties or functions, shall from time to time be determined by the Lieutenant-Governor in Council.

Remuneration and terms of service.

(3) The Lieutenant-Governor in Council shall fix the remuneration and terms of service and prescribe the duties and functions of the persons appointed under this section, and such persons shall be paid for their services by the Minister of Finance under the provisions of Section 33.

Status of employees.

(4) Subject to Section 13, an officer or other employee employed under the provisions of this section does not become, by reason of such employment, an officer or employee of Her Majesty.

Oath to be taken by members of staff.

(5) Every person appointed under this section shall, before commencing to perform his duties and functions under this Act, take and subscribe the following oath:

"I,
of in the
Province of Newfoundland,
do solemnly swear that I will faithfully, truly, impartially, honestly, justly and to the best of my judgment, skill and ability, execute and perform the duties required of me as under The Parliamentary Commissioner (Ombudsman) Act, as now or hereafter amended, and that I will not, except for the purpose of giving effect to the said Act, divulge any information received by me in the execution and performance of my duties under the said Act. So help me God.".

Administration of oath.

(6) The oath referred to in subsection (5) shall be administered by the Commissioner.

Pension for Commissioner.

12.—(1) When the Commissioner ceases to perform his duties after having performed them for not less than ten years or, subject to subsection (3) of this Section 12, upon ceasing to hold

office by virtue of subsection (3) of Section 6 or upon resignation before the expiration of such period by reason of a permanent disability preventing him from usefully performing his duties, he shall be entitled to, and be paid, an annual pension equal to one-third of the salary that he was receiving when he ceased to perform his duties.

Idem.

(2) If the Commissioner ceases to perform his duties after having performed them for not less than twenty years or upon ceasing to hold office by virtue of subsection (3) of Section 6 or upon resignation during a second ten-year term by reason of a disability referred to in subsection (1), he shall be entitled to, and be paid, an annual pension equal to two-thirds of the salary that he was receiving when he ceased to perform his duties.

Disability must be established to satisfaction of Speaker.

(3) The disability referred to in subsection (1) must be established to the satisfaction of the Speaker of the House of Assembly.

Pension to widow.

(4) From the first day of the month following the death of the Commissioner, whether in office or retired, there shall be paid to his widow, during widowhood, an annual pension, payable monthly, equal to one-half of the pension which he was receiving or to which he would have been entitled had he been retired.

Payment of pension out of Consolidated Revenue Fund.

(5) Subject to the other provisions of this section, the pensions referred to in this section shall be for life, and they shall be paid out of the Consolidated Revenue Fund in equal monthly instalments and shall be inalienable and unseizable.

Suspension of payment.

(6) The payment of a pension under this section to a person who has already been Commissioner shall cease if and while the beneficiary holds temporarily or permanently a position, office or employment to which is attached a remuneration paid by the Government of the province or by an agency, corporation, commission, board or other body under the jurisdiction of the Government.

Pensions of employees appointed under Section 11.

13. Unless the Lieutenant-Governor in Council otherwise by order directs in the case of any person or persons specified in the order, the provisions of The Public Service (Pensions) Act

shall apply to every person appointed under Section 11 as if he were an employee of the Government of Newfoundland and, subject to the exceptions and conditions prescribed in that Act, every such person shall pay contributions to and participate in the pension plan established by that Act.

Duties and functions of Commissioner.

14.—(1) Subject to Section 15, the principal duty and function of the Commissioner shall be to investigate any decision or recommendation made, including any recommendation made to a Minister, or any act done or omitted, relating to a matter of administration and affecting any person or body of persons in his or its personal capacity, in or by any Department or agency, or by any officer, employee or member thereof in the exercise of any power or function conferred on him by any enactment.

Initiation of investigation.

(2) The Commissioner may make any investigation referred to in subsection (1) either on a complaint made to him by any person or of his own motion, and he may commence an investigation notwithstanding that the complaint may not on its face be against a decision, recommendation, act or omission as mentioned in subsection (1).

Exercise of Commissioner's powers not impeded.

(3) The powers and duties conferred on the Commissioner by this Act may be exercised and performed notwithstanding any provision in any Act to the effect that

(a) any decision, recommendation, act or omission mentioned in subsection (1) is final;

(b) no appeal lies in respect thereof; or

(c) no proceeding or decision of the body or person whose decision, recommendation, act or omission it is shall be challenged, reviewed, quashed or called in question.

Committee of House of Assembly may refer matters to Commissioner.

(4) Without limiting the generality of subsection (1), any committee of the House of Assembly may, with the permission of the House of Assembly, refer to the Commissioner, for investigation and report by him, any petition that is before that committee for consideration or any matter to which the petition relates, and, in that case, the Commissioner shall,

(a) subject to any special directions of the committee, investigate the matters so referred to him so far as such matters are within his jurisdiction; and

(b) make such report to the committee as he thinks fit,

but nothing in Section 17, 23 or 24 applies in respect of any investigation or report made under this subsection.

Jurisdiction restricted.

15.—(1) Nothing in this Act authorizes the Commissioner to investigate

(a) any decision, recommendation, act or omission in respect of which there is under any Act a right of appeal or objection or a right to apply for a review on the merits of the case to any court or to any tribunal constituted by or under any Act, until after that right of appeal or objection or application has been exercised in the particular case or until after the time prescribed for the exercise of that right has expired; or

(b) any decision, recommendation, act or omission of any person acting as a solicitor for the Crown or acting as counsel for the Crown in relation to any proceedings.

Commissioner may apply to Supreme Court for declaratory order.

(2) If any question arises as to whether the Commissioner has jurisdiction to investigate any case or class of cases under this Act, he may, if he thinks fit, apply to the Supreme Court of Newfoundland for a declaratory order determining the question.

Complaints to Commissioner

16.—(1) Every complaint to the Commissioner shall be made or taken down in writing.

Complaints from persons in custody or in certain hospitals.

(2) Notwithstanding any other Act, where a letter written by or in behalf of

(a) any person in custody on a charge or after conviction of an offence; or

(b) any patient of a hospital as defined in subsection (3)

is addressed to the Commissioner, it shall be immediately forwarded, unopened, to the Commissioner by the person for the time being in charge of the place or institution where the complainant is detained or of which he is a patient.

Definition.

(3) For the purposes of subsection (2), "hospital" means the Hospital for Mental and Nervous Diseases, St. John's, and includes any other hospital designated by the Minister of Health, with the consent of the authority operating the hospital, as a hospital for the purposes of Part IX of The Health and Public Welfare Act.

Commissioner may refuse to investigate a complaint.

17.—(1) If, in the course of the investigation of any complaint, it appears to the Commissioner

(a) that under the law or existing administrative practice there is an adequate remedy, other than the right to petition the Legislature, for the complainant, whether or not he has availed himself of it; or

(b) that, having regard to all the circumstances of the case, any further investigation is unnecessary,

he may in his discretion refuse to investigate the matter further.

Idem.

(2) The Commissioner may, in his discretion, refuse to investigate or cease to investigate any complaint

(a) if it relates to any decision, recommendation, act or omission of which the complainant has had knowledge for more than twelve months before the complaint is received by the Commissioner; or

(b) if, in his opinion,

(i) the subject matter of the complaint is trivial,

(ii) the complaint is frivolous or vexatious or is not made in good faith, or

(iii) the complainant has not a sufficient personal interest in the subject matter of the complaint.

Complainant to be informed if Commissioner decides not to investigate a complaint.

(3) Where the Commissioner decides not to investigate or decides to cease to investigate a complaint, he shall inform the complainant of his decision and state his reasons therefor.

Notice of investigation.

18.—(1) Before investigating any matter under this Act, the Commissioner shall inform the Deputy Minister of the Department or the administrative head of the agency affected, as the case may be, of his intention to make the investigation.

Consultation with Minister concerned.

(2) The Commissioner may, in his discretion at any time during or after an investigation, consult any Minister who is concerned in the matter of the investigation.

Idem.

(3) On the request of any Minister in relation to an investigation or in any case where an investigation relates to any recommendation made to a Minister, the Commissioner shall consult that Minister after making the investigation and before forming a final opinion on any of the matters referred to in subsection (1) or (2) of Section 23.

Reference to Deputy Minister concerned.

(4) If, during or after an investigation, the Commissioner is of opinion that there is evidence of any breach of duty or misconduct on the part of any officer or employee of any Department or agency, he shall refer the matter to the Deputy Minister of the Department or the administrative head of the agency, as the case may be.

Conduct of investigation.

19.—(1) Every investigation by the Commissioner under this Act shall be conducted in private.

Idem.

(2) The Commissioner may hear or obtain information from such persons as he thinks fit and he may make such inquiries as he thinks fit.

Idem.

(3) It is not necessary for the Commissioner to hold any hearing and no person is entitled as of right to be heard by the Commissioner, but, if at any time during the course of an investigation it appears to the Commissioner that there may be sufficient grounds for his making a report or recommendation that may adversely affect any Department, agency or person, he shall give to that Department, agency or person an opportunity to be

heard, and the Department, agency or person is entitled to counsel at the hearing.

Procedure

(4) Subject to this Act and any rules made under Section 30, the Commissioner may regulate his procedure in such manner as he thinks fit.

Evidence at investigation.

20.—(1) Subject to this section and to Section 21, the Commissioner may require any person who, in his opinion, is able to give any information relating to any matter being investigated by him

(a) to furnish the information to him; and

(b) to produce any document, paper or thing that in his opinion relates to the matter being investigated and that may be in the possession or under the control of that person,

whether or not that person is an officer, employee or member of a Department or agency and whether or not the document, paper or thing is in the custody or under the control of a Department or agency.

Examination of witnesses under oath.

(2) The Commissioner may summon before him and examine on oath

(a) any person who is an officer or employee or member of any Department or agency and who in the Commissioner's opinion is able to give any information referred to in subsection (1);

(b) any complainant; or

(c) any other person who in the Commissioner's opinion is able to give any information referred to in subsection (1),

and for that purpose may administer an oath.

Where person examined is under oath of secrecy.

(3) Subject to subsection (4), a person who is bound by any Act to maintain secrecy in relation to, or not to disclose, any matter is not required to

(a) supply any information to or answer any question put by the Commissioner in relation to that matter; or

(b) produce to the Commissioner any document, paper or thing relating to it,

if compliance with that requirement would be in breach of the obligation of secrecy or non-disclosure.

Idem.

(4) With the prior consent in writing of a complainant, any person to whom subsection (3) applies may be required by the Commissioner to supply information or answer any question or produce any document, paper or thing relating only to the complainant, and it is the duty of the person to comply with the requirement.

Respecting privileges of witnesses.

(5) Every person has the same privileges in relation to the giving of information, the answering of questions and the production of documents, papers and things under this Act as witnesses have in any court.

Admissibility of evidence applied to Commissioner.

(6) Except on the trial of a person for perjury, no statement made or answer given by that or any other person in the course of an inquiry by or any proceedings before the Commissioner is admissible in evidence against any person in any court or at any inquiry or in any other proceeding, and no evidence in respect of proceedings before the Commissioner shall be given against any person.

Commissioner deemed to be an investigating body for the purposes of The Evidence (Public Investigations) Act.

(7) The Commissioner is deemed to be an "investigating body" for the purposes of The Evidence (Public Investigations) Act.

Protection of persons giving evidence.

(8) No person is liable to prosecution for an offence against any Act by reason of his compliance with any requirement of the Commissioner under this section.

Disclosures restricted.

21.—(1) Where the Minister of Justice certifies that the giving of any information or the answering of any question or the production of any document, paper or thing might involve the disclosure of

(a) the deliberations of the Executive Council; or

(b) proceedings of the Executive Council, or committee thereof relating to matters of a secret or confidential nature and would be injurious to the public interest,

the Commissioner shall not require the information or answer to be given or, as the case may be, the document, paper or thing to be produced, but shall report the giving of the certificate to the Legislature.

Saving.

(2) Subject to subsection (1), the rule of law that authorizes or requires the withholding of any document, paper or thing, or the refusal to answer any question, on the ground that the disclosure of the document, paper or thing or the answering of the question would be injurious to the public interest, does not apply in respect of any investigation by or proceedings before the Commissioner.

Maintenance of secrecy.

22.—(1) The Commissioner and every person holding an office or appointment under him shall maintain secrecy in respect of all matters that come to their knowledge in the exercise of their functions.

Saving.

(2) Notwithstanding subsection (1), the Commissioner may disclose in any report made by him under this Act such matters as in his opinion ought to be disclosed in order to establish grounds for his conclusions and recommendations.

Procedure after investigation.

23.—(1) This section applies where, after making an investigation under this Act, the Commissioner is of opinion that the decision, recommendation, act or omission that was the subject matter of the investigation

(a) appears to have been contrary to law;

(b) was unreasonable, unjust, oppressive, improperly discriminatory or was in accordance with a rule of law or a provision of any Act or a practice that is or may be unreasonable, unjust, oppressive or improperly discriminatory;

(c) was based wholly or partly on a mistake of law or fact; or

(d) was wrong.

Idem. (2) This section also applies where the Commissioner is of opinion

(a) that in the making of the decision or recommendation, or in the doing or omission of the act, a discretionary power has been exercised

(i) for an improper purpose,

(ii) on irrelevant grounds, or

(iii) on the taking into account of irrelevant considerations; or

(b) that, in the case of a decision made in the exercise of a discretionary power, reasons should have been given for the decision.

Idem. (3) If, where this section applies, the Commissioner is of opinion

(a) that the matter should be referred to the appropriate authority for further consideration;

(b) that the omission should be rectified;

(c) that the decision should be cancelled or varied;

(d) that any practice on which the decision, recommendation, act or omission was based should be altered;

(e) that any law on which the decision, recommendation, act or omission was based should be reconsidered;

(f) that reasons should have been given for the decision; or

(g) that any other steps should be taken,

the Commissioner shall report his opinion and his reasons therefor to the appropriate Minister and to the Department or agency concerned, and may make such recommendations as he thinks fit and in that case he may request the Department or agency to notify him within a specified time of the steps, if any, that it proposes to take to give effect to his recommendations.

Idem.

(4) If within a reasonable time after the report is made no action is taken which seems to the Commissioner to be adequate and appropriate, the Commissioner, in his discretion, after considering the comments, if any, made by or on behalf of the Department or agency affected, may send a copy of the report and recommendations to the Lieutenant-Governor in Council and shall thereafter make such report to the Legislature on the matter as he thinks fit.

Idem.

(5) The Commissioner shall attach to every report sent or made under subsection (4) a copy of any comments made by or on behalf of the Department or agency concerned.

Idem.

(6) Notwithstanding anything in this section, the Commissioner shall not, in any report made under this Act, make any comment that is adverse to any person unless the person has been given an opportunity to be heard.

Results of investigation to be made known to the complainant.

24.—(1) Where the Commissioner makes a recommendation under subsection (3) of Section 23 and no action that seems to the Commissioner to be adequate and appropriate is taken thereon within a reasonable time, the Commissioner shall inform the complainant of his recommendation and make such comments on the matter as he thinks fit.

Idem.

(2) The Commissioner shall in any case inform the complainant, in such manner and at such time as he thinks proper, of the result of the investigation.

Proceedings of Commissioner not subject to review.

25. No proceeding of the Commissioner shall be held bad for want of form and, except on the ground of lack of jurisdiction, no proceedings or decision of the Commissioner shall be challenged, reviewed, quashed or called in question in any court.

Proceedings of Commissioner privileged.

26.—(1) No proceedings lie against the Commissioner or against any person holding an office or appointment under the Commissioner for anything he may do or report or say in the course of the exercise or intended exercise of his powers, duties and functions under this Act, unless it is shown that he acted in bad faith.

Commissioner not to be called to give evidence of his proceedings.

(2) The Commissioner or any person holding an office or appointment under the Commissioner shall not be called upon to give evidence in any court or in any proceedings of a judicial nature in respect of any thing coming to his knowledge in the exercise of his powers, duties or functions under this Act.

Information given to Commissioner privileged.

(3) Anything said or any information supplied or any document, paper or thing produced by any person in the course of any inquiry by or proceedings before the Commissioner under this Act is privileged in the same manner as if the inquiry or proceedings were proceedings in a court.

Privilege respecting laws of defamation.

(4) For the purposes of any Act or law respecting defamation, any report made by the Commissioner under this Act shall be deemed to be privileged and a fair and accurate report thereon in a newspaper or a radio or television broadcast shall be deemed to be privileged.

Entry of premises.

27.—(1) For the purposes of this Act, the Commissioner may at any time enter upon any premises occupied by any Department or agency and inspect the premises and, subject to Sections 20 and 21, carry out therein any investigation that is within his jurisdiction.

Idem

(2) Before entering upon any premises pursuant to subsection (1), the Commissioner shall notify the Deputy Minister of the Department or, as the case may require, the administrative head of the agency that occupies the premises of his intention to do so.

Delegation of powers.

28.—(1) With the prior approval of the Lieutenant-Governor in Council, the Commissioner may, by writing under his hand, delegate to any person holding any office under him any of his powers under this Act, except this power of delegation and the power to make any report under this Act.

Idem.

(2) A delegation may be made to a specified person or to the holder for the time being of a specified office or to the holders of offices of a specified class.

Delegation revocable.

(3) Every delegation is revocable at will and no delegation prevents the exercise of any power by the Commissioner.

Delegation may be subject to restrictions.

(4) A delegation may be made subject to such restrictions and conditions as the Commissioner thinks fit, and may be made either generally or in relation to any particular case or class of cases.

Duration of delegation.

(5) Until a delegation is revoked, it continues in force according to its tenor and, in the event of the Commissioner by whom it was made ceasing to hold office, continues to have effect as if made by his successor.

Protection of persons to whom powers delegated.

(6) While exercising any power of the Commissioner delegated to him under this section, the person exercising such power is subject to, and entitled to all the benefits, privileges and protection of, the provisions of this Act relating to the Commissioner.

Person exercising delegated authority to give evidence of delegation.

(7) Any person purporting to exercise any power of the Commissioner by virtue of such a delegation shall, when required to do so, produce evidence of his authority to exercise the power.

Annual report to be made by Commissioner.

29.—(1) The Commissioner shall, in each year, make a report to the Legislature on the exercise of his powers, duties and functions under this Act.

Publication of certain reports.

(2) The Commissioner may, from time to time, in the public interest or in the interests of any person or Department or agency, publish reports relating

(a) generally to the exercise of his powers, duties and functions under this Act; or

(b) to any particular case investigated by him,

whether or not the matters to be dealt with in any such report have been the subject of a report to the Legislature.

House of Assembly may make rules for Commissioner's guidance.

30. The House of Assembly may,

(a) of its own volition; or

(b) upon the recommendation of the Lieutenant-Governor in Council,

make rules for the guidance of the Commissioner in the exercise of his powers, duties and functions under this Act.

Offences and penalties.

31.—(1) Any person who

(a) without lawful justification or excuse, wilfully obstructs, hinders or resists the Commissioner or any other person in the exercise of any of his powers, duties or functions under this Act;

(b) without lawful justification or excuse, refuses or wilfully fails to comply with any lawful requirement of the Commissioner or any other person under this Act; or

(c) wilfully makes any false statement to or misleads or attempts to mislead the Commissioner or any other person in the exercise of any of his powers, duties or functions under this Act,

is guilty of an offence and liable on summary conviction to a fine not exceeding one thousand dollars and in default of payment to imprisonment for a term not exceeding six months.

Idem.

(2) Any officer or other employee appointed under Section 11 who makes known, except for the purpose of giving effect to the provisions of this Act, anything that has come to his knowledge in the performance of his duties or functions under this Act is guilty of an offence and liable on summary conviction to a fine not exceeding one thousand dollars and in default of payment to imprisonment for a term not exceeding six months.

This Act in addition to provisions of other Acts

32. The provisions of this Act are in addition to the provisions of any other Act or any rule of law under which

(a) any remedy or right of appeal or objection is provided for any person; or

(b) any procedure is provided for the inquiry into or investigation of any matter,

and nothing in this Act limits or affects any such remedy or right of appeal or objection or procedure.

Payments out of Consolidated Revenue Fund.

33. The Minister of Finance shall, from moneys voted by the Legislature for the purpose, make payments out of the Consolidated Revenue Fund for the purposes of paying all salaries and allowances and other expenditure payable or incurred under or in the administration of this Act.

Limitation.

34. The Commissioner shall not make an investigation into any act or omission that occurred more than twelve months before the day of the coming into force of this Act.

Non-application to provincial courts or the Executive Council.

35. Subject to Section 21, this Act does not apply to

(a) judges, magistrates and functions of any court of the province; or

(b) deliberations and proceedings of the Executive Council or any committee thereof.

Interpretation.

36. The purpose and intent of this Act is to govern only matters within the competence of the Legislature of the province, and nothing in this Act shall be construed to govern any matter which is not subject to the Legislative authority of the said Legislature.

Date of coming into force.

37. This Act shall come into force on a day to be proclaimed by the Lieutenant-Governor in Council.

E. RALPH DAVIS, QUEEN'S PRINTER.

AN ACT TO AMEND THE PARLIAMENTARY COMMISSIONER (OMBUDSMAN) ACT.

(May 2, 1975)

Be it enacted by the Lieutenant-Governor and House of Assembly in Legislative Session convened, as follows:

Short title.

1. This Act may be cited as The Parliamentary Commissioner (Ombudsman) (Amendment) Act, 1975.

Repeal Sec. 3.

2. Section 3 of The Parliamentary Commissioner (Ombudsman) Act, Chapter 285 of The Revised Statutes of Newfoundland, 1970, is repealed.

Repeal and substitution Sec. 9(1).

3. Subsection (1) of Section 9 of the said Act is repealed and the following substituted therefor:

Salary of Commissioner

"(1) The Commissioner shall be paid a salary comparable to the salary paid to the Chief Magistrate of the Provincial Court of Newfoundland."

Amdt. Sec. 16(3).

4. Subsection (3) of Section 16 of the said Act is amended by deleting the expression "Hospital for Mental and Nervous Diseases, St. John's, and includes any other hospital" and by substituting therefor the expression "Waterford Hospital, and includes any other hospital, or part of a hospital,".

Date of coming into force.

5. This Act shall come into force on the day that The Parliamentary Commissioner (Ombudsman) Act comes into force.

E. RALPH DAVIS, QUEEN'S PRINTER.

CHAPTER 30

AN ACT TO AMEND THE PARLIAMENTARY COMMISSIONER (OMBUDSMAN) ACT

(Assented to December 3, 1982)

Analysis

Section:		Section:	
1.	S.2(1)(a) Amdt. The Waterford Hospital		Constabulary
2.	S. Added. 14.1 Complaints re	3.	S.16(3) R&S. Definition

Be it enacted by the Lieutenant-Governor and House of Assembly in Legislative Session convened, as follows:

RSN 1970 c.285 as amended

1. Paragraph (a) of subsection (1) of section 2 of The Parliamentary Commissioner (Ombudsman) Act is amended by adding immediately after the words "The Workers' Compensation Act," the words "the Waterford Hospital".

2. The said Act is amended by adding immediately after section 14 the following:

Complaints re Constabulary

"14.1(1) Without limiting the generality of this Act, where a person has a complaint against any member of The Royal Newfoundland Constabulary that person may report the complaint to the Commissioner.

(2) Notwithstanding any provision of this Act, the Commissioner may investigate, review, recommend and report with respect to any complaint made under subsection (1) in accordance with the procedure set forth in this Act."

3. Subsection (3) of section 16 of the said Act is repealed and the following substituted:

"(3) For the purposes of subsection (2), "hospital" means the Waterford Hospital, and includes any other hospital, or part of a hospital, designated by the Minister of Health, with the consent of the authority operating the hospital, as a treatment facility under subsection (2) of section 4 of The Mental Health Act, 1971."

David C.B. Dawe, Queen's Printer

POOR

QUALITY

ORIGINAL